



0000167046

BEFORE THE ARIZONA CORPORATION COMMISSION

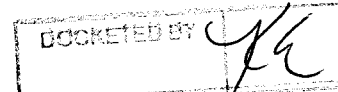
COMMISSIONERS

SUSAN BITTER SMITH - Chairman
BOB STUMP
BOB BURNS
DOUG LITTLE
TOM FORESE

Arizona Corporation Commission

DOCKETED

NOV 25 2015



DOCKET NO. RR-03639A-15-0147

DECISION NO. 75337

IN THE MATTER OF THE APPLICATION OF
THE ARIZONA DEPARTMENT OF
TRANSPORTATION TO UPGRADE AN
EXISTING CROSSING OF THE UNION PACIFIC
RAILROAD AT GOLD HILL ROAD IN THE CITY
OF NOGALES, SANTA CRUZ COUNTY,
ARIZONA, USDOT NO. 742-032E.

OPINION AND ORDER

DATE OF HEARING: August 4, 2015

PLACE OF HEARING: Phoenix, Arizona

ADMINISTRATIVE LAW JUDGE: Marc E. Stern

APPEARANCES: Mr. James Redpath and Michelle Burton, Assistant
Attorneys General, Transportation Section, on behalf of
the Arizona Department of Transportation;

Mr. W. Reed Campbell, Beaugureau, Hancock, Stoll &
Schwartz, P.C., on behalf of the Union Pacific Railroad;
and

Mr. Charles Haines, Staff Attorney, Legal Division on
behalf of the Safety Division of the Arizona Corporation
Commission.

BY THE COMMISSION:

On May 8, 2015, the Arizona Department of Transportation ("ADOT") filed with the Arizona Corporation Commission ("Commission") an application for approval for the Union Pacific Railroad ("Railroad") to upgrade an existing crossing at Gold Hill Road in the City of Nogales ("City"), Santa Cruz County, Arizona, at USDOT No. 742-032E ("Application").

On May 26, 2015, by Procedural Order, a hearing was scheduled for August 4, 2015.

On June 23, 2015, ADOT filed documentation that it had provided public notice in accordance with the Commission's Procedural Order.

On August 4, 2015, a full public hearing was convened before a duly authorized

1 Administrative Law Judge of the Commission at its offices in Phoenix, Arizona. ADOT, the
 2 Railroad and the Commission's Safety Division, Railroad Safety Section ("Staff") were present with
 3 counsel. At the conclusion of the hearing, the matter was taken under advisement pending
 4 submission of a Recommended Opinion and Order to the Commission.

5 * * * * *

6 Having considered the entire record herein and being fully advised in the premises, the
 7 Commission finds, concludes, and orders that:

8 FINDINGS OF FACT

9 1. On May 8, 2015, ADOT filed an Application requesting an Opinion and Order from
 10 the Commission approving an agreement between ADOT and the Railroad to upgrade an existing at-
 11 grade crossing at Gold Hill Road in Nogales, Santa Cruz County, Arizona, USDOT No. 742-032E.

12 2. Prior to the filing of the Application, representatives of ADOT, the City, the Railroad
 13 and Staff participated in several diagnostic review meetings of the proposed upgrades for the
 14 crossing. All parties who were present at these meetings were in agreement that the proposed
 15 enhancements would improve safety at the crossing.¹

16 3. ADOT is seeking Commission approval to upgrade the existing at-grade crossing at
 17 Gold Hill Road, a two lane paved roadway, which consists of one westbound and one eastbound lane.
 18 The proposed improvements will replace the existing automatic warning devices with two new
 19 automatic gates with LED flashing lights on both sides of the crossing. Additionally, constant
 20 warning time circuitry will be installed along with advanced traffic preemption to interconnect with
 21 the traffic signals. The Railroad will maintain the warning devices and the crossing surface after the
 22 upgrades are completed.

23 4. On June 23, 2015, ADOT filed documentation that it had provided public notice of the
 24 Application and hearing thereon, pursuant to the Commission's Procedural Order, by publishing
 25

26 ¹ The proposed upgrade of the Gold Hill Road crossing was approved by the Commission in Decision No. 73610
 27 (December 12, 2012) as part of the 2012 Annual Array to utilize federal funding pursuant to 23 U.S.C. § 130 ("Section
 28 130") which is provided by the Federal Highway Administration ("FHWA") to reimburse ADOT for 100 percent of the
 cost of the project. Section 130 projects are used to eliminate hazards to pedestrians and highway vehicles at public
 railroad crossings which are not primarily for the benefit of the Railroad.

1 notice in the *Nogales International* and by mailing by certified U.S. mail, notice to the City and the
2 Railroad.

3 5. The hearing was held as scheduled on August 4, 2015.

4 6. According to the Staff Memorandum, the areas adjacent to the Gold Hill Road
5 crossing consist primarily of land which is zoned for light industrial uses.

6 7. Mr. Jason Pike, an ADOT employee who is involved in the Section 130 projects
7 testified in support of the Application.

8 8. Mr. Pike stated that the project was a typical at-grade crossing improvement with
9 upgrades to the gates, advanced preemption and train detection devices at the Gold Hill Road
10 crossing which is located in the City. (Tr. 6:1-5)

11 9. Mr. Pike stated that the existing gates will be replaced with new gates with flashing
12 LED lights. (Tr. 8:17-20)

13 10. Mr. Pike testified that ADOT is in agreement with the recommendations of Staff in its
14 memorandum. (Tr. 7:5-8)

15 11. Mr. Pike further testified that ADOT is also in agreement with Staff with respect to the
16 fact that grade separation is not required at the Gold Hill Road crossing, according to the nine criteria
17 in the Federal Highway Administration Grade Crossing Handbook. (Tr. 9:7-9)

18 12. According to the Staff Memorandum, the City will maintain the roadway approaches
19 to the Gold Hill Road at-grade crossing, but the crossing surface and upgraded equipment will be
20 maintained by the Railroad, and completed within 15 months of the effective date of this Decision
21 pursuant to A.A.C. R14-5-104.

22 13. Mr. Pike stated that the upgrade which had previously been approved by the
23 Commission in its 2012 Array Decision would be funded for approximately \$250,000, with 100
24 percent Section 130 funding. (Tr. 8:10-16)

25 14. According to Mr. Pike, the upgrades to be installed at Gold Hill Road are in the public
26 interest and will be consistent with similar crossings in Arizona. (Tr. 9:4-13)

15. Mr. Brian Lehman, the Supervisor of the Railroad Safety Section for the Commission, testified that he had prepared the Staff Memorandum which describes the nature of ADOT's proposed improvements at the Gold Hill Road crossing. (Tr. 11:1-10)

16. According to Mr. Lehman, Staff believes that the improvements which will be made to the Gold Hill Road crossing are in the public interest and consistent with improvements which have been made to similar crossings throughout Arizona. (Tr. 12:10-15)

17. Mr. Lehman further testified that the Railroad will maintain the crossing surface and the automatic warning devices at the Gold Hill Road crossing. (Tr. 15:13-22)

18. Mr. Lehman stated that the advanced traffic preemption circuitry which will be installed at the Gold Hill Road crossing is a significant improvement for the crossing, and it will be made safer for large vehicles such as tractor-trailer trucks and school buses. (Tr. 13-14)

19. Mr. Lehman testified that Staff does not believe that the Gold Hill Road crossing requires grade separation according to federal guidelines at this time. (Tr. 12:16-21)

20. Staff is recommending that the Application be approved.

CONCLUSIONS OF LAW

1. The Commission has jurisdiction over the parties and over the subject matter of the Application pursuant to Article XV of the Arizona Constitution and A.R.S. §§ 40-336, 40-337 and 40-337.01.

2. Notice of the Application was provided in accordance with the law.

3. The installation of the crossing upgrade is necessary for the public's convenience and safety.

4. Pursuant to A.R.S. §§ 40-336 and 40-337, the Application should be approved as recommended by Staff.

5. After the installation of the improvements at the Gold Hill Road crossing, the Railroad should maintain the crossing in accordance with A.A.C. R14-5-104.

ORDER

IT IS THEREFORE ORDERED that the Arizona Department of Transportation's Application, as described herein, is hereby approved.

1 IT IS FURTHER ORDERED that the Union Pacific Railroad shall complete the crossing
2 upgrade as described in the Application within fifteen months of the effective date of this Decision.

3 IT IS FURTHER ORDERED that the Union Pacific Railroad shall notify the Commission, in
4 writing, within ten days of both the commencement and completion of the crossing upgrade, pursuant
5 to A.A.C. R14-5-104.

6 IT IS FURTHER ORDERED that upon completion of the crossing upgrade, the Union Pacific
7 Railroad shall maintain the crossing in compliance with A.A.C. R14-5-104.

8 IT IS FURTHER ORDERED that this Decision shall become effective immediately.

9 BY ORDER OF THE ARIZONA CORPORATION COMMISSION.

10
11 
12 CHAIRMAN

10
11 
12 COMMISSIONER

13
14 
15 COMMISSIONER

13
14 
15 COMMISSIONER

13
14 
15 COMMISSIONER

16 IN WITNESS WHEREOF, I, JODI JERICH, Executive
17 Director of the Arizona Corporation Commission, have
18 hereunto set my hand and caused the official seal of the
19 Commission to be affixed at the Capitol, in the City of Phoenix,
20 this 25th day of November 2015.

19
20 
21 JODI JERICH
22 EXECUTIVE DIRECTOR

21
22 DISSENT _____

23
24 DISSENT _____
25 MES:tv

1 SERVICE LIST FOR: UNION PACIFIC RAILROAD COMPANY

2 DOCKET NO.: RR-03639A-15-0147

3 Alex Popovici, Manager
4 Industry & Public Projects
5 UNION PACIFIC RAILROAD COMPANY
6 631 South 7th Street
7 Phoenix, AZ 85034-2203

8 W. Reed Campbell
9 BEAUGUREAU, ZUKOWSKI & HANCOCK, P.C.
10 302 East Coronado
11 Phoenix, AZ 85004
12 Attorneys for Union Pacific Railroad Company

13 Jason Pike
14 Railroad and Utility Coordinator
15 ARIZONA DEPARTMENT OF TRANSPORTATION
16 205 South 17th Avenue, Room 357
17 M/D 618E
18 Phoenix, AZ 85007

19 James Redpath
20 Michelle Burton
21 OFFICE OF THE ATTORNEY GENERAL
22 1275 W. Washington Street
23 Phoenix, AZ 85007

24 City Attorney's Office
25 CITY OF NOGALES
26 777 N. Grand Avenue
27 Nogales, AZ 85261

28 Janice Alward, Chief Counsel
Legal Division
ARIZONA CORPORATION COMMISSION
1200 West Washington Street
Phoenix, AZ 85007

Brian Lehman, Chief
Railroad Safety Section of the Safety Division
ARIZONA CORPORATION COMMISSION
1200 West Washington Street
Phoenix, AZ 85007

23

24

25

26

27

28